

**SO ORDERED.**

**SIGNED this 27th day of November,  
2012.**



THOMAS W. WALDREP, JR.  
UNITED STATES BANKRUPTCY JUDGE



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
WINSTON-SALEM DIVISION**

IN RE:	)	
	)	
ALAN LEE CLINE, SR.	)	Case No. 11-50045
	)	
Debtor.	)	Chapter 13
_____	)	

**SUPPLEMENTAL ORDER AND MEMORANDUM OPINION FINDING  
CITIFINANCIAL IN CIVIL CONTEMPT OF COURT AND CONTINUING HEARING**

This matter came before the Court on November 21, 2012, upon the Order entered October 31, 2012 (the “Attendance Order”) and the Motion to Authorize the Towing and Storage of a Vehicle (the “Motion”), filed by the above-captioned Debtor (the “Debtor”) on October 10, 2012. Attorney Thomas W. Anderson (“Anderson”) appeared on behalf of the Debtor, and no one appeared on behalf of Citifinancial (“Citifinancial”).

At the October 24, 2012 hearing on the Motion, Anderson informed the Court that, although the Debtor released his 1995 Chevrolet S-10 (the “vehicle”) to Citifinancial in the April 7, 2011 Order Confirming Chapter 13 plan, Citifinancial has not picked up the vehicle. Anderson could not recall, however, whether he had contacted a representative from Citifinancial regarding the vehicle. The Court had questions regarding the proposed towing and storage arrangement. In order to give Citifinancial an opportunity to explain its position, the Court entered the Attendance Order, which

required a representative from Citifinancial to appear with counsel at the hearing on November 21, 2012.

Neither a representative of Citifinancial nor counsel for Citifinancial appeared at the November 21, 2012 hearing. Citifinancial failed to comply with the Attendance Order, and the Court finds Citifinancial in civil contempt of court. "Civil contempt . . . is remedial in nature and involves a sanction imposed by the courts to enforce compliance with an order or judgment of the court or to compensate for losses or damages sustained by reason of noncompliance with the order or judgment." In re Ware, No. 02-12262, slip op. at 3 (Bankr. M.D.N.C. April 24, 2003) (2003 WL 1960454) (citing Hicks ex rel. Feiock v. Feiock, 485 U.S. 624, 108 S.Ct. 1423 (1988)). "If a party is aware of the existence of an order or injunction and voluntarily engages in conduct which violates the order or injunction, that party is in civil contempt without regard to whether there was any specific intent to violate the order." Id., slip op. at 4. Copies of the Attendance Order were served on five different addresses of Citifinancial, and none of the copies were returned to the Court. The Court concludes that Citifinancial was aware of the Attendance Order and the requirement that Citifinancial attend the November 21, 2012 hearing.

On November 26, 2012, the Court entered an Order requiring Citifinancial to pay a fine of \$10,000.00 by December 3, 2012, and to appear with counsel at a hearing on December 5, 2012. This Order and Memorandum Opinion supplements the November 26, 2012 Order.

The \$10,000.00 fine may be purged in whole or in part by (1) compliance with this order and (2) the presentation to the Court of a sufficient explanation for failing to comply with the Attendance Order. Citifinancial shall also pay any actual damages and attorneys' fees incurred by the Debtor for Citifinancial's failure to appear at the November 21, 2012 hearing. Such damages and fees shall be determined at the hearing set below.

It is therefore ORDERED that hearings on the Attendance Order and the Motion are continued to December 5, 2012 at 9:30 a.m. in the United States Bankruptcy Court, First Floor Courtroom, 226 South Liberty Street, Winston-Salem, North Carolina.

It is further ORDERED that a representative of Citifinancial and counsel for Citifinancial shall appear at the hearing on December 5, 2012.

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
WINSTON-SALEM DIVISION**

IN RE:	)	
	)	
ALAN LEE CLINE, SR.	)	Case No. 11-50045
	)	
Debtor.	)	Chapter 13
_____	)	

**PARTIES IN INTEREST**

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